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Order 99-12-23



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

SERVED DEC 29 1999

Issued by the Department of Transportation
on the 27th day of December, 1999

Ninety-day Notice of

**AIR NEVADA, INC., D/B/A PACIFIC
WINGS**

under 49 U.S.C. 41731 *et seq.* to terminate
service at Hana, Hawaii

Docket OST-1999-6502-3

**ORDER PROHIBITING SUSPENSION OF SERVICE, REQUESTING
PROPOSALS AND INSTITUTING A REVIEW OF ESSENTIAL AIR SERVICE**

Summary

By this order, the Department is prohibiting Air Nevada, Inc., d/b/a Pacific Wings, from suspending service at Hana, Hawaii, and requesting proposals from carriers interested in providing replacement essential air service (EAS).

Essential Air Service Definition

By Order 83-12-10 the Department defined essential air service for Hana as requiring at least two daily round trips to both Honolulu (with up to two stops) and Kahului (nonstop). There was to be sufficient capacity to accommodate at least 26 passengers a day, or, based on an assumed 50% load factor, at least 52 seats arriving and 52 seats departing from the community.

Background

On September 9, 1999, Aloha Island Air, Inc. filed a 90-day notice to terminate all of its service at Hana and was allowed to do so by Order 99-9-24, and was granted a waiver to leave two months early, on October 1, 1999. However, we conditioned Island Air's termination on Pacific Wing's increasing its service to three well-timed nonstop round trips a day to Kahului and two nonstop round trips a day to Honolulu, Hana's two historical hubs, upon Island Air's departure. That level of service made 40 seats inbound and 40 outbound available per day to Hana. While that level of capacity fell short of the 52 seats required under Hana's current definition, it was more than enough to carry Hana's recently reported traffic of approximately 12 enplanements per day for the year ended December 31, 1998. Moreover, Aloha Airlines, the code-share parent of both

Island Air and Pacific Wings, agreed to work with the community and with Pacific Wings to ensure a smooth carrier transition.

On November 11, 1999, Pacific Wings filed a 90-day notice of its intention to suspend its subsidy-free service at Hana effective February 9, 2000. The carrier stated that it was not its desire to abandon Hana, but that it could not continue the same service levels given the losses that it was absorbing. Pacific Wings currently provides two daily nonstop round trips in the Honolulu market and three daily nonstop round trips in the Kahului market with 8-seat Cessna 402 equipment, the level it had proposed to provide when it replaced Aloha Island Air's service.

Essential Air Service Review

In view of Pacific Wings' suspension notice we have begun a review of the community's essential air service determination and its service needs. As noted in Order 99-9-24, recent traffic levels at Hana show approximately 12 enplanements a day at the community. (See Appendix B for recent traffic history.) It appears that recent traffic levels at Hana could thus be accommodated with 24 seats a day. We further note that the Department generally does not guarantee service to two hubs, such as was specified in Hana's essential air service determination back in 1983. We will therefore tentatively redefine the essential air service definition for Hana to require 24 seats outbound and 24 seats inbound per day--capacity sufficient to enplane 12 passengers a day at 50% load factor. In addition, the principal mission of the EAS program is to guarantee that eligible communities maintain a link to the national air transportation system. It is the Department's general policy that service to only one hub--in this case either Kahului or Honolulu--provides that access. We will therefore tentatively redefine Hana's EAS to require service to either Kahului *or* Honolulu.

We will await service proposals from interested carriers and any further comments from the community and State before we establish a final definition. We will also defer a final decision on the level of air service to secure pending receipt of service proposals and comments from the community and State.

Service Proposals

In accordance with the foregoing discussion, we request service proposals from carriers interested in offering service at Hana. We will consider service proposals serving either Kahului or Honolulu or both and total capacity in the range of between 24 and 40 seats a day.

Historical Traffic at Hana

In order to assist interested carriers in developing traffic and revenue projections for their service proposals, we have summarized the historical origin-destination traffic above and presented it in Appendix B.

Procedures for Filing Replacement Proposals

For interested carriers not familiar with our procedures and recommended form for supplying the necessary information, we have prepared two explanatory documents that we will make available upon request. The first describes the process for handling carrier replacement cases under 49 U.S.C. 41734(f) and discusses in detail the process of requesting proposals, conducting reviews of applicants, and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, a copy of Part 204 of our regulations (14 CFR 204), and schedules setting forth our recommended form for submitting data required for calculating compensation and determining the financial and operational ability of applicants to provide reliable EAS. (Section 204.4 describes the fitness information required of all applicants for authority to provide essential air service.) Applicant carriers that have already submitted this information in another case need only resubmit it if a substantial change has occurred.

However, if there are more recent data or if there have been any changes to the information on file, carriers should provide updates of those information elements. Interested carriers that need to obtain copies of these documents may contact the Office of Aviation Analysis at (202) 366-1053.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces and nondiscrimination.¹ Consequently, all carriers receiving Federal subsidy to support essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

Community and State Comments

The community and state are welcome to submit comments on the proposals at any time. Early in the proceeding, comments on the proposals' strengths and weaknesses

¹ The regulations applicable to each of these three areas are (1) 49 CFR Part 20, New Restrictions of Lobbying, implementing title 31, United States Code, section 1352, entitled, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions"; (2) 49 CFR Part 29, Subpart F, Drug-Free Workplace Requirements (Grants), implementing the Drug-Free Workplace Act of 1988; and (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and 14 CFR Part 382, Nondiscrimination on the Basis of Handicap in Air Travel.

would be particularly helpful, and the civic parties may also express a preference for a particular carrier, if they choose. In any event, after conducting rate conferences with all applicants, we will provide a summary of the conference results to the civic parties and ask them to file their final comments.²

Lastly, since Pacific Wings is the only carrier providing scheduled air service at Hana, its proposed termination of service would eliminate all air service to the community. Thus, in accordance with 49 U.S.C. 41734, we must prohibit Pacific Wings from suspending service at Hana for an initial 30-day period beyond the end to the 90-day notice period, through March 9, 2000, or until suitable replacement service has been inaugurated at the community, whichever comes first.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY;

1. The Department requests that carriers interested in providing essential air service at Hana, submit their proposals, with subsidy if necessary, within 21 days after the date of service of this order. Proposals should include all the data required by section 204.4 of the Department's Regulations (14 CFR 204.4). An original and five copies of the proposal should be sent to the EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, with the title "Proposal to Provide Essential Air Service at Hana, Docket OST 1999-6502;
2. The Department prohibits Pacific Wings from suspending service at Hana, Hawaii, at the end of its 90-day notice period and requires it to maintain nineteen nonstop round trips per week in the Hana-Kahului market and thirteen nonstop round trips per week in the Hana-Honolulu market through March 9, 2000, or until a carrier capable of providing reliable essential air service actually begins service, whichever comes first;³
3. The Department directs Pacific Wings to retain all books, records, and other source and summary documents to support subsidy claims for payment and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;
4. This docket will remain open until further order of the Department; and

² In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be provided reliably without such compensation, we do not normally hold rate conferences. Instead, we rely on the carrier's subsidy-free service as proposed.

³ In accordance with 49 U.S.C. 41734(c), we will extend Pacific Wings' service obligation for successive 30-day periods as necessary until replacement service actually begins.

5. The Department will serve a copy of this order on the community of Hana, Hawaii, the Hawaii Department of Transportation and Public Facilities, Pacific Wings and the carriers and other parties listed in Appendix C.

By:

A. BRADLEY MIMS

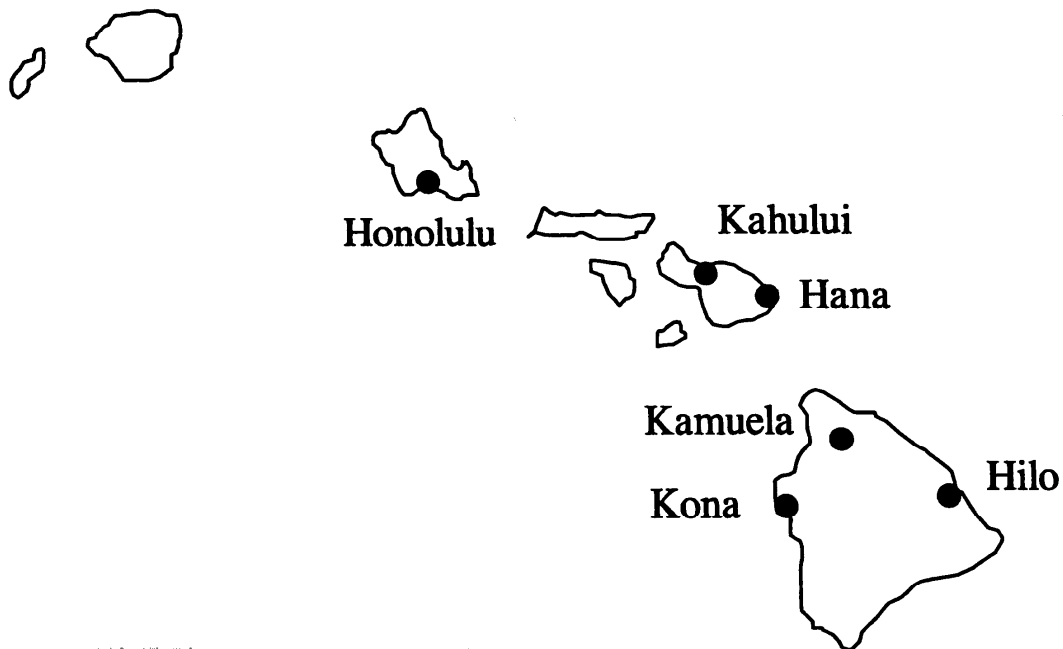
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

The electronic version may not include all of the appendices

HAWAII



Mileages

Kamuela - Kona	33
Kamuela - Hilo	45
Kamuela - Honolulu	171
Kamuela - Kahului	78
Hana - Kahului	28
Hana - Honolulu	128

Historical Traffic At Hana, Hawaii

Carrier	City Pair	QE 9712	QE 9803	QE 9806	QE 9809	YE 9809	QE 9812	QE 9903	QE 9906	QE 9909	YE 9909
Pacific Wings	HNL-HNM	0	0	79	14	93	120	91	148	155	514
Pacific Wings	HNM-HNL	0	0	45	17	62	79	145	163	160	547
Island Air	HNL-HNM	251	268	278	190	987	190	248	272	206	916
<u>Island Air</u>	<u>HNM-HNL</u>	<u>238</u>	<u>253</u>	<u>222</u>	<u>262</u>	<u>975</u>	<u>180</u>	<u>210</u>	<u>181</u>	<u>227</u>	<u>798</u>
	Hana-Honolulu Total	489	521	624	483	2,117	569	694	764	748	2,775
Pacific Wings	HNM-OGG	0	0	50	17	67	26	18	16	74	134
Pacific Wings	OGG-HNM	0	0	39	24	63	30	15	11	123	179
Island Air	HNM-OGG	699	837	799	782	3,117	682	780	858	639	2,959
<u>Island Air</u>	<u>OGG-HNM</u>	<u>696</u>	<u>745</u>	<u>660</u>	<u>685</u>	<u>2,786</u>	<u>607</u>	<u>679</u>	<u>728</u>	<u>576</u>	<u>2,590</u>
	Hana-Kahului Total	1,395	1,582	1,548	1,508	6,033	1,345	1,492	1,613	1,412	5,862
Pacific Wings	MKK-HNM	0	0	0	0	0	32	2	19	7	60
Pacific Wings	HNM-MKK	0	0	0	0	0	30	0	16	1	47
Island Air	HNM-MKK	78	100	91	47	316	72	63	38	62	235
<u>Island Air</u>	<u>MKK-HNM</u>	<u>83</u>	<u>72</u>	<u>89</u>	<u>82</u>	<u>326</u>	<u>58</u>	<u>69</u>	<u>38</u>	<u>95</u>	<u>260</u>
	Hana-Molokai Total	161	172	180	129	642	192	134	111	165	602
	Community Total	2,045	2,275	2,352	2,120	8,792	2,106	2,320	2,488	2,325	9,239

SERVICE LIST FOR THE STATE OF HAWAII

Air Molokai, Inc.
Air Nevada Airlines, Inc.
Aloha Islandair, Inc.
Amerijet International, Inc.
Delta Connection
Hawaiian Airlines, Inc.
Metroflight, Inc.
Midway Airlines, Inc.
Midwest Express Airlines, Inc.
Northwest Airlink
Trans Executive Airlines of Hawaii, Inc.

Ken Bannon
Grecorio Salas Calvo, Jr.
Myron Caplan
E.B. Freeman
A. Edward Jenner
John McFarlane
Kevin Thomas